

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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<b>DEMOS P. DEMOPOULOS, ANTHONY</b>	:	
<b>STORZ, LUIS HERRERA, ROBERT HOLDEN,</b>	:	
<b>SCOTT LITTLE, AND PETER INGRAHAM</b>	:	<b>ORDER ADOPTING REPORT</b>
<b>AS TRUSTEES AND FIDUCIARIES OF THE</b>	:	<b>AND RECOMMENDATION</b>
<b>LOCAL 807 LABOR-MANAGEMENT</b>	:	
<b>PENSION FUND,</b>	:	22-CV-5584 (AMD) (JAM)
	:	
Plaintiffs,	:	
	:	
– against –	:	
	:	
<b>SHOWTIME ON THE PIERS, LLC,</b>	:	
	:	
Defendant.	:	
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**ANN M. DONNELLY**, United States District Judge:

The plaintiffs — trustees and fiduciaries of an employee benefit plan for members of Local 807, I.B.T. or its successor union, Local 553 — commenced this action on September 19, 2022 against the defendant, a New York corporation party to and bound by a set of collective bargaining agreements with the labor unions. (ECF No. 1.) The collective bargaining agreement to which the defendant agreed, as relevant here, required the defendant to make certain contributions and payments to the unions’ joint trustee funds on behalf of the defendant’s employees. (*Id.* ¶ 4.)

The plaintiffs allege that the defendant either permanently ceased to have an obligation to contribute to the Fund or permanently ceased all covered operations as of March 31, 2020. (*See id.* ¶ 12.) Under ERISA, Section 4201, 29 U.S.C. § 1381, the defendant must pay withdrawal liability to the Fund for its proportionate share of the Fund’s unfunded vested benefits. (*See id.* ¶ 13.) The defendant never responded to the plaintiffs’ written demand for payment of

withdrawal liability, and it did not make any payment by commencement of this action in September 2022. (*See id.* ¶¶ 14–18.)

The defendant did not answer or otherwise appear. The Clerk of Court entered a default on May 17, 2023. (ECF No. 13.) On October 19, 2023, the plaintiffs filed a motion for default judgment. (ECF No. 23.) On October 24, 2023, the Court referred the motion to Magistrate Judge Vera Scanlon. (*ECF Order dated Oct. 24, 2023.*) On August 13, 2024, Judge Scanlon issued a comprehensive Report and Recommendation, recommending that the plaintiffs’ motion be granted in part and denied in part<sup>1</sup> and that the Court award the plaintiffs: (1) \$446,565.00 in withdrawal liability; (2) \$124,646.70 in interest plus interest accruing at \$220.22 per day from October 20, 2023 until the day judgment is entered; (3) \$124,646.70 in liquidated damages plus liquidated damages accruing at \$220.22 per day from October 20, 2023 until the day judgment is entered; and (4) \$6,230.75 in attorneys’ fees and costs. (ECF No. 28 at 19.) No objections have been filed to the Report and Recommendation, and the time for doing so has passed.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quotation marks omitted).

I have carefully reviewed Judge Scanlon’s thorough and well-reasoned Report and Recommendation and find no error. Accordingly, I adopt the Report and Recommendation in its entirety and order that the plaintiffs’ motion for default judgment is granted in part and denied in

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<sup>1</sup> Judge Scanlon denied the motion in part only to change the amount of interest, liquidated damages, and attorneys’ fees the plaintiffs may recover. (ECF No. 28 at 14–16, 18.)

part. The plaintiffs are awarded (1) \$446,565.00 in withdrawal liability; (2) \$124,646.70 in interest plus interest accruing at \$220.22 per day from October 20, 2023 until the day judgment is entered; (3) \$124,646.70 in liquidated damages plus liquidated damages accruing at \$220.22 per day from October 20, 2023 until the day judgment is entered; and (4) \$6,230.75 in attorneys' fees and costs.

**SO ORDERED.**

s/Ann M. Donnelly

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ANN M. DONNELLY  
United States District Judge

Dated: Brooklyn, New York  
September 3, 2024